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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,231	03/19/2001	Kenneth H. Crain	125273.00006	3412

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EXAMINER	
KANG, PAUL H	

ART UNIT	PAPER NUMBER
2144	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/813,231	CRAIN ET AL.	
	Examiner	Art Unit	
	Paul H. Kang	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18 and 20-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18 and 20-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 March 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 23, 2007 has been entered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-18 and 20-37 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of U.S. Patent No. 7,200,815 B2.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the patented claims are the same as the context of the present claims. The '815 patent claims a method for reconstructing visual stimuli observable through a browser-based interface as a function of user defined parameters and other user input. The state of a visual stimuli is stored for reconstructing the display based as a function of said state.

4. Claims 1-18 and 20-37 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 and 18-21of copending Application No. 09/812,405. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the patented claims are the same as the context of the present claims. The co-pending application claims a method for reconstructing visual stimuli observable through a browser-based interface as a function of user defined parameters and other user input. The state of a visual stimuli is stored for reconstructing the display based as a function of said state.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-3, 6, 12-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton et al., US Patent No. 5,951,643, in view of Levine, US Pat. No. 6,385,590.

7. In claim 1, Shelton teaches the invention substantially as claimed. Shelton teaches a method of electronically processing browser-viewable visual stimuli, comprising (Abstract):

detecting an event comprising changes in visual stimuli electronically presented to, observable by, and resultant from a user interacting with a browser interface (Col 2, lines 10-30);

assigning an identification (ID) to the event ("session ID," Col 5, lines 1-10).

However, Shelton does not explicitly teach evaluating at least one changed parameter of the presented non-textual visual stimuli changed by the event, recording the event, including the changed parameters, for later use in reconstruction; and reconstructing the event based on the recorded event including the changed parameters.

In the same field endeavor, Levine teaches a system and method for determining the effectiveness of a stimulus comprising evaluating at least one changed parameter of the presented non-textual visual stimuli changed by the event, recording the event, including the changed parameters, for later use in reconstruction; and reconstructing the event based on the recorded event including the changed parameters. (User interaction with visual stimuli is recorded and used for future reconstruction and design of the visual stimuli; Levine, col. 3, line 66 – col. 4, line 52 and col. 5, line 21 – col. 6, line 40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the evaluation, recording and reconstruction visual stimuli parameters, as taught by Levine, into the system of Shelton for the purpose of improving the effectiveness and customization the information presented to the user.

8. In claim 2, Shelton-Levine teach a method of claim 1 further comprising querying at least one of the changed parameters (Shelton, Col 2, lines 20-25).

9. In claim 3, Shelton-Levine teach a method of claim 1 wherein the ID is an alphanumeric string (Fig. 6) (Shelton, Col 10, lines 10-20).

10. In claim 6, Shelton-Levine teach a method of claim 1 further comprising determining a location of online content displayed within the primary browser window (Shelton, Col 14, lines 45-65).

11. In claim 12, Shelton-Levine teach a method of claim 1 further comprising creating an event object (changing the name in the name field)(Shelton, Col 14, lines 45-65).

12. In claim 13, Shelton-Levine teach a method of claim 1 further comprising creating a screen image object (Shelton, Col 14, lines 45-65).

13. In claim 14, Shelton-Levine teach a method of claim 1 further comprising recording an event object parameter (Shelton, Abstract).

14. In claim 15, Shelton-Levine teach a method of claim 13 further comprising a screen-image object parameter (Shelton, Col 14, lines 45-65).

15. In claim 16, Shelton-Levine teach a method of claim 16 further comprising querying at least one parameter (Shelton, Col 14, lines 45-65).

16. In claim 18, Shelton-Levine teach recording at least one of the evaluated parameters (Levine, col. 3, line 66 – col. 4, line 52 and col. 5, line 21 – col. 6, line 40).

3. Claims 4-5, 7-11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelton-Levine in view of Qureshi et al., US Patent No. 6,456,305.

17. In claim 4, Shelton-Levine teach the invention substantially as claimed, however does not explicitly teach a method further comprising determining the location and area of a primary browser window.

In the same field of endeavor, Qureshi discloses determining the parameter of a default page in order to refit the page to a different display device (Qureshi, Col 4, lines 50-67). It would have been obvious to one of ordinary skill at the time of the invention to determine the location of a window for the purpose of providing an effective graphical user interface.

18. In claim 5, Shelton-Levine-Qureshi, teach a method of claim 4 further comprising determining a horizontal size, and a vertical size, of a primary browser window as immediately displayed in the display area, and a two-dimensional location of at least a corner of the primary browser window (Qureshi, Figs. 2-8 and 9b).

19. In claim 7, Shelton-Levine-Qureshi, teach a method of claim 6 further comprising determining the location of the online-content as an offset with respect to a corner of the primary browser window (Qureshi Col 9, line 55- Col 10, line 5).

20. In claim 8, Shelton-Levine-Qureshi teach a method of claim 1, further comprising determining a parameter of a child window (Qureshi, Col 9, line 55- Col 10, line 5).

21. In claim 9, Shelton-Levine-Qureshi teach a method of claim 8 further comprising a parameter of a child window (Qureshi, col. 11, line 27 – col. 13, line 22).

22. In claim 10, Shelton-Levine-Qureshi teach a method of claim 8 further comprising determining a two-dimensional location of the child window relative to a primary browser window (Qureshi, col. 11, line 27 – col. 13, line 22).

23. In claim 11, Shelton-Levine-Qureshi teach about a method of claim 8 wherein determining a position of online-content within the child window (Qureshi Col 9, line 55- Col

10, line 5).

24. In claim 17, Shelton-Levine-Qureshi teach a method of claim 16 further comprising determining an offset of the online-content relative to a corner of the child window (Qureshi, col. 11, line 27 – col. 13, line 22).

25. Claims 21-37 are equivalent to claims 2-18 except for method steps, therefore claims 21-37 are rejected under the same rationale.

Response to Arguments

26. Applicant's arguments with respect to claims 1-18 and 20-37 have been considered but are moot in view of the new ground(s) of rejection. The applicant argued in substance that the prior art fails to teach the newly added limitations, in part, evaluating at least one changed parameter of the visual stimuli and recoding the event, and reconstructing the event based on the recorded event. The new grounds of rejection teach these features.

Conclusion

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul H Kang/
Primary Examiner
Art Unit 2144